

Minutes
DAGSBORO TOWN COUNCIL
Bethel Center - 28307 Clayton Street
Monday, November 15, 2021

I. CALL MEETING TO ORDER

Meeting was called to order by Mayor Baull at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor William Chandler (via phone), Councilwoman Theresa Ulrich, Councilman Patrick Miller, Town Administrator Cynthia Brought, Engineering Consultant Kyle Gulbranson, and Town Solicitor Greg Morris. Councilman Norwood Truitt was absent.

II. PUBLIC COMMENT

No public comment was made.

III. PUBLIC HEARING

Town Solicitor Greg Morris stated that there are four (4) Resolutions/Ordinances that the Town Council is considering adopting into the Municipal Code of the Town of Dagsboro. He stated that they will each be reviewed individually.

1. A RESOLUTION TO CONSIDER AN ORDINANCE TO ADD CHAPTER 125 TO CREATE FINANCIAL GOOD STANDING TO THE MUNICIPAL CODE OF THE TOWN OF DAGSBORO.
2. A RESOLUTION TO CONSIDER AN ORDINANCE TO ADD CHAPTER 126 TO CREATE A CAPITAL REPLACEMENT TRUST FUND FOR THE BENEFIT OF THE TOWN IN THE REPAIR AND REPLACEMENT OF CAPITAL ASSETS OR IMPROVEMENTS TO THE MUNICIPAL CODE OF THE TOWN OF DAGSBORO.
3. A RESOLUTION TO CONSIDER AN ORDINANCE TO ADD CHAPTER 127 TO CREATE AN EMERGENCY RESERVE TRUST FUND FOR THE BENEFIT OF THE TOWN FOR NATURAL DISASTERS OR PUBLIC EMERGENCY TO THE MUNICIPAL CODE OF THE TOWN OF DAGSBORO.
4. A RESOLUTION TO CONSIDER AN ORDINANCE TO ADD CHAPTER 128 TO CREATE A STREET REPAIR AND REPLACEMENT TRUST FUND FOR THE BENEFIT OF THE TOWN IN THE REPAIR AND REPLACEMENT OF TOWN STREETS, DRAINAGE SYSTEM AND SIDEWALKS.

Town Solicitor Morris instructed as to how the public hearing works. He confirmed with Town Administrator Brought that the Notice for Public Hearing was published; she stated "yes it was." Those in favor of the Resolution/Ordinance may speak first and those in opposition shall be permitted to speak afterwards. When you speak, please identify yourself, your address and limit your comment to five (5) minutes. Any member of council may ask questions of the speaker or staff pertaining to the comments made by any of the speakers. After all persons desiring to be heard have had an opportunity to speak,

the public hearing will be closed upon a proper motion by Council. The Mayor shall then inquire if Council desires to discuss the matter any further and then they shall consider whether or not they are going to vote for or against the proposed Resolution/Ordinance.

Town Solicitor Morris stated that with no one coming forward for or against he turned it over to Town Council for any questions, concerns or statements that they may have. Mayor Baull asked if Vice-Mayor Chandler would explain what each Resolution/Ordinance is. Vice-Mayor Chandler stated that as discussed at previous meetings, these Ordinances are designed to create what other towns have in place.

Vice-Mayor Chandler stated that Resolution/Ordinance 125 is a good standing Ordinance which basically states that any resident of the town that would like to apply for a building permit, license, or anything else from the town has to be in financial good standing with the town. They cannot have any outstanding bills owed to the town. They would have to remedy the problem before they could come to the town to ask for a building permit or license from the town.

Resolution/Ordinance 128 would create a special fund to deal with road repairs, road replacements, and/or any infrastructure type problems. That fund would be funded with the monies that the town gets from the State of Delaware and developments that come into the town. That would be the street aid and emergency fund that one of the Resolution/Ordinances will create.

Resolution/Ordinance 127 is an emergency or catastrophe type Resolution/Ordinance which will create a fund for the town that will be a permanent fund that is funded by transfer tax fees, other type fees and some fees provided by developers. He stated that the fund will be there for any kind of emergency that the town might face. The State of Delaware has a rainy day fund of the same nature and if the town were ever to have a short fall in revenues for some reason that was unusual, the town would be able to dip into this fund to help make sure the budget can be balanced. He stated that those are the Resolutions/Ordinances and the rationale for them. There will be more to follow on this as Town Solicitor Morris is working on some adjustments and/or modifications to the fee structure that the town imposes for developments. Some of the fees will be dedicated in part to some of these trust funds that are being created under these Resolutions/Ordinances.

Town Solicitor Morris stated that he wanted to clarify that the Council understood all of the Resolutions/Ordinances that were before them. The first is to add Chapter 125 to create Financial Good Standing. Second is to add Chapter 126 to create a Capital Replacement Trust Fund for the benefit of the town in the repair and replacement of capital assets. Third is to add Chapter 127 to create an Emergency Reserve Trust Fund for the benefit of the town for natural disasters or public emergencies. Fourth is to add Chapter 128 to create a Street Repair and Replacement Trust Fund for the benefit of the town in the repair and replacement of town streets, drain systems and sidewalks.

Councilman Miller made a motion for the Resolution to consider an Ordinance to add Chapter 125 to create Financial Good Standing to the Municipal Code of the Town of Dagsboro as well as the Ordinance itself. Vice-Mayor Chandler seconded the motion. The vote was 4-0 with one councilmember absent.

Councilwoman Ulrich made a motion for the Resolution to consider an Ordinance to add Chapter 126 to the Municipal Code of the Town of Dagsboro for the Capital Replacement Trust Fund as well as the Ordinance itself. Councilman Miller seconded the motion. The vote was 4-0 with one councilmember absent.

Vice-Mayor Chandler made a motion for the Resolution to consider an Ordinance to add Chapter 127 to the Municipal Code of the Town of Dagsboro for the Emergency Trust Fund as well as the Ordinance itself. Councilwoman Ulrich seconded the motion. The vote was 4-0 with one councilmember absent.

Councilman Miller made a motion for the Resolution to consider an Ordinance to add Chapter 128 to the Municipal Code of the Town of Dagsboro to create a Street Repair and Replacement Trust Fund. Councilwoman Ulrich seconded the motion. The vote was 4-0 with one councilmember absent.

Town Solicitor Morris stated that he is working on the next segment of these Ordinances which is to increase or add on additional fees for the proper funding of these funds.

IV. APPROVAL OF MINUTES

October 18, 2021 Town Council Meeting

Councilwoman Ulrich made a motion to approve the minutes as submitted. Councilman Miller seconded the motion. The vote was 3-0 with Vice-Mayor Chandler exiting call and one councilmember absent.

V. CONSENT AGENDA

a. Police Report

Sargent Disciullo reviewed the police report for the month of October.

b. Treasurer's Report

c. Administrative Report

Town Administrator Brought asked the Council's thoughts on Christmas bonuses and the amount.

Councilwoman Ulrich made a motion to distribute Christmas bonuses in the amount of \$250 to all town employees. Councilman Miller seconded the motion. The vote was 3-0 with Vice-Mayor Chandler exiting call and one councilmember absent.

Councilman Miller made a motion to accept the snow plow bid from Gray's Creative Touch for Winter 2021/2022 season. Councilwoman Ulrich seconded the motion. The vote was 3-0 with Vice-Mayor Chandler exiting the call and one councilmember absent.

Town Administrator Brought stated that she had not heard back from Eddie or Nancy Marvel as of yet in regard one of them filling the vacancy on the Board of Adjustment.

- d. Building Official Report
- e. Code Enforcement Report
- f. Meeting Reports
- g. Water Department Report
- h. Prince George's Chapel Cemetery Report
- i. Correspondence

Councilwoman Ulrich confirmed in regard to the map of new parcels from Artesian that was provided that they are just letting us know. Town Administrator Brought stated that "yes they just wanted the town to be aware of the customers that they are servicing outside of the corporate limits."

Councilman Miller made a motion to approve the consent agenda. Councilwoman Ulrich seconded the motion. The vote was 3-0 with Vice-Mayor Chandler exiting the call and one councilmember absent.

VI. PLANNING & ZONING REPORT

Recommendation/Draft of Proposed Changes to Town Center District (Kyle Gulbranson/Brad Connor)

P&Z Chairman Connor stated that the Planning Commission has been working over the last few months to change some of these Ordinances and tighten them up in lieu of the liquor definition problem to make it easier for business people to know exactly what is allowed and not allowed. The Planning Commission has made some changes in light of Brian Florek's upcoming project; he would like to put in warehousing and some of the businesses he wants to possibly include within the Seabreeze Business Park and these are included in the proposed changes.

VII. NEW BUSINESS

- a. Review and Discussion on Proposed Changes to Town Center District (Kyle Gulbranson)

Engineering Consultant Gulbranson stated that the P&Z Commission reviewed all the permitted uses that are allowed in the Town Center District. During the review of the permitted uses we cleaned up definitions, uses that no longer apply and made deletions. P&Z Commission compiled an updated list of permitted uses as well as the addition of three (3) specific uses that are not permitted within the Town Center District. If Town Council were in favor of these Town Center uses, then the current permitted uses would be deleted under the Town Center Zoning District regulations and these new uses would be inserted in place of that. He stated that the three (3) uses that were specifically prohibited were:

1. Businesses that involve production, storage, distillation, manufacturing, processing, distribution, and wholesale and retail sale of liquor, beer, wine, and hard cider are not permitted in this district.
2. No store that sells pornographic or other obscene materials shall be permitted.
3. Medical cannabis dispensaries or related businesses are not permitted.

He stated that the list that was provided to Town Council is the new list or finely tailored uses. The restaurant provisions that were already in the Town Center District have not been changed. Town Administrator Brought stated that Vice-Mayor Chandler expressed a concern to her through an email in regard to (5) classic car restoration provided all repair and service work is completed within an enclosed building and there is no outside storage of equipment, supplies, or vehicles. She stated that he was not specific but that he was not happy with that or (6) convenience store with gas pumps and he has questions on those.

Engineering Consultant Gulbranson stated that the reason that (6) Convenience store with gas pumps is because we have an existing facility in the Town Center District and the concern was that if a new owner were to buy that property and it wasn't a permitted use they would have issues getting financing to improve the site. He stated that it is hard to get financing for a non-conforming use.

Councilwoman Ulrich asked in regard to parking for (25) temporary removable stands, carts or farm wagons for seasonal and temporary sales of produce. It stated that parking for the business customers shall not be within the right-of-way of the State of Delaware roadway or Town of Dagsboro streets. She asked for clarification as to whether they can park on the street or not. Engineering Consultant Gulbranson stated that "no, they are not supposed to with the way this was drafted originally." He stated that maybe what this should say is "no parking in non-designated areas of right-of-way."

Mayor Baull stated that on (11) drugstores is listed there and then Pharmacy listed separately in (22). He asked if that was a redundancy. Engineering Consultant Gulbranson stated "no a pharmacy is more of a variety of products and a drugstore is smaller and more like a mom and pop type drugstore."

Engineering Consultant Gulbranson stated that when this list was compiled, they referred back to the two (2) surveys of what the residents would like to see in Dagsboro. He stated that one survey was completed with the Downtown Development District Plan and the other survey with the Comprehensive Plan Update.

Mayor Baull stated that since there are oppositions to these changes, this would be brought up at the next month's meeting. Engineering Consultant Gulbranson stated that once this is finalized and everyone is happy with the changes, it is a zoning change and therefore a Public Hearing will need to be scheduled to update the Zoning Code.

b. Police Vehicles – Future Grant (Chief Flood – Sgt. Disciullo)

Sargent Disciullo stated that the police department is seeking Town Council's approval for a new police vehicle. He reviewed the department's current inventory and stated that the 2011 Black Chevy Tahoe has 101,000 miles on it. He felt that this vehicle is not suited to be a patrol vehicle any longer. He stated that the department would like to see it phased out as it has a lot of mechanical issues. He stated that inventory is difficult to find at this time, but he was able to locate a 2021 Black Dodge Durango AWD at the state contract price of \$38,500. He stated that it took him awhile to find this vehicle and

there is no guarantee it can be held without it being sold. He stated that the estimated cost to up-fit the vehicle, which is essentially getting it road ready with lights, sirens, cage etc., is \$12,000. He stated that this is just a basic estimate for the up-fit he won't know total cost until he contacts the suppliers. He stated that the total estimated cost is \$50,500.

Sargent Disciullo stated that the State of Delaware will have upcoming grant money that he can apply for to help with the up-fit costs. He stated that it is not guaranteed, but he felt that it could help with a few thousand off the up-fit cost.

Sargent Disciullo stated that he would like to see the Silver Ford Taurus be the part-time patrol vehicle as it has mechanical issues as well and is in the shop quite frequently. He stated that it does have 63,000 miles and for a police vehicle that means about 100,000 miles due to sitting idle.

He stated that the 2011 Black Chevy Tahoe would be the spare vehicle. For example, Chief Flood was on vacation, but the department had three (3) cars getting in and out of the shop. Therefore the department does need the spare vehicle for the officers to get home while their vehicle is at the shop.

Sargent Disciullo stated that there is a USDA grant that they were not able to apply for in 2021 because they essentially ran out of money. He stated that he would like to apply for this grant in 2022. He stated that this would cover 75% of a vehicle cost, but it is a matter of applying and getting selected.

Sargent Disciullo stated that they will receive the Sussex County Grant of \$30,000 in September 2022 and would like to use that money to supplement the vehicle cost. Therefore the town would only have to cover eight or nine months of the payments. Town Administrator Brought and Sargent Disciullo stated that the money received in September of 2021 which was also the Sussex County Grant of \$30,000 was used to pay off the 2019 Silver Chevy Tahoe.

Councilwoman Ulrich asked Town Administrator Brought if any of the department's current vehicles have payments. Town Administrator Brought stated "no they are all paid off." Councilwoman Ulrich asked if there was money in the budget because if she remembered correctly money was being put aside like there was a car payment still out there. Town Administrator Brought stated "no it was decided to stop doing that, but she felt it should be implemented again in the 2023 budget as we are always going to need vehicles. She stated that she sees no issues with the town making the payments until the grants are received. Town Administrator Brought stated that the police department has gotten so many grants this past year and coming up that they really are paying for themselves.

Councilwoman Ulrich made a motion to approve the purchase of the 2021 Black Dodge Durango AWD for the price of \$38,500 and the \$12,000 for the up-fit for a total cost of \$50,500. Councilman Miller seconded the motion. The vote was 3-0 with Vice-Mayor Chandler exiting the call and one councilmember absent.

VIII. OLD BUSINESS

- a. Review Quotes – Survey Combining Parcels for (3) Three Lots New Police Station/Meeting Room (Cindi Brought)

Town Administrator Brought stated that Cotton Engineering quote was the least amount at \$1,900 and they were recommended by Bill Chandler because he just used them to survey his property. The Davis, Bowen & Friedel quote was next at \$2,400. The Simpler Surveying quote was for \$4,150, but she felt that they had a lot of things in the quote that may not apply. She stated that if the Council is ready she would like to at least get the survey done and get drawings started. She stated that the money is in place to do all of this.

Mayor Baull asked Town Engineer Gulbranson if he was familiar with Cotton Engineering. He stated “yes, he has seen some surveys done in the past by them.” Town Engineer Gulbranson stated that his only question was on the Davis, Bowen & Friedel quote as it states that they would identify existing utilities on the site and he felt that would be helpful with the land planning, but an additional survey will probably be needed.

Councilwoman Ulrich made a motion to accept the bid for \$1,900 from Cotton Engineering. Councilman Miller seconded the motion. The vote was 3-0 with Vice-Mayor Chandler exiting the call and one councilmember absent.

- b. Update Interconnection Agreement (Greg Morris/Bill Chandler)

Town Solicitor Morris stated that he received a response from Millsboro’s Counsel. He stated after reviewing Millsboro’s revised Agreement with Vice-Mayor Chandler and Town Administrator Brought there was only one (1) major issue that Vice-Mayor Chandler had and that was with paragraph ten (10) and that it should be stricken from the Agreement. Based upon those conversations Town Solicitor Morris sent it back to Counsel for Millsboro and advised her that everything was fine with the exception of paragraph ten (10). He stated she emailed him back advising that she would speak to her team and get back to him. He stated that apparently Millsboro had already adopted the Agreement with paragraph ten (10) even though they had not consulted the Town of Dagsboro. Essentially the argument is that Millsboro should not control what type of meters, vaults, or related devices the Town of Dagsboro uses. Town Administrator Brought stated that she felt it would not be discussed again until their meeting on December 6th.

- c. Candidate Upcoming Election – Election Status (Cindi Brought)

Town Administrator Brought stated that the candidacy filing was closed on Friday, November 12th at 4:30 p.m. She stated that we had received four (4) applications however Councilman Patrick Miller withdrew his application. She stated that we had three (3) vacancies and we had three (3) filings. Incumbents Brian Baull and Theresa Ulrich re-applied and the new applicant, William Labor, was present for introduction. William Labor introduced himself and stated that he lived on Waples Street, next to

Patrick Miller, which is how he heard about the opportunity. He stated that he has lived in Dagsboro about a year and his sister lives in Frankford. He works for Microsoft as a Senior Program Manager and works from home. He enjoys living closer to family and appreciates the opportunity to get involved in the area where he lives and hopes to make an impact. His wife's name is Jen and they have three (3) children, a six year old, a four year old and an eight month old.

Town Administrator Brought stated that on Tuesday, November 16th there will be a brief meeting to review and accept the applicants. If accepted they will be sworn in at the December 20, 2021 meeting.

Mayor Baull stated that the Christmas parade will be on Tuesday, December 14, 2021 at 7:00 p.m. and that Mark Steele is the Grand Marshal. Santa will be back in the Park Mondays and Wednesdays starting December 6, 2021

IX. PUBLIC COMMENT

No public comment was made.

X. ADJOURNMENT

Councilman Miller made a motion to adjourn. Councilwoman Ulrich seconded the motion. The vote was 3-0 with Vice-Mayor Chandler exiting the call and one councilmember absent.

Meeting adjourned at 6:36 p.m.

Respectfully Submitted,

Stacy West, Town Clerk